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MISSOULA, MT
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PATRICK E. DUFFY
BY _____
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

GREGORY PAUL NESSELRODE, and)	CV 07-49-M-DWM-JCL
NESSELRODE, LLC,)	
)	
Plaintiffs,)	
)	
vs.)	ORDER
)	
BRUCE A. MEASURE; TIA R. ROBBIN;)	
DANIEL R. WILSON; MEASURE, ROBBIN)	
& WILSON, P.C., ATTORNEYS FOR)	
PROVIDENT FINANCIAL, INC.; BRAD)	
WALTERSKIRCHEN, and PROVIDENT)	
FINANCIAL, INC.,)	
)	
Defendants.)	
)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on July 31, 2007. Plaintiffs filed objections and are entitled to de novo review of the record pursuant to 28 U.S.C. § 636(b)(1). The parties are familiar with the factual and procedural background so it will only be recited as necessary.

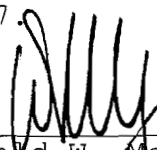
The Court concurs with Judge Lynch's recommendation that Plaintiffs' motion for settlement process and money judgment

should be dismissed. His claim that he is entitled to a money judgment pursuant to the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, does not account for the Federal Rules of Civil Procedure and case law. The motion is premature and it fails to establish the legal and factual bases that would support either a summary judgment or a Rule 12 motion. Despite Plaintiffs' comments in their objections regarding summary judgment, they fall considerably short of meeting their legal burden to demonstrate they are entitled to a money judgment. Judge Lynch's Findings and Recommendation succinctly review the requirements that are absent.

Based upon the foregoing, I adopt Judge Lynch's Findings and Recommendation (dkt #20) in full.

Accordingly, IT IS HEREBY ORDERED that the motion for settlement process and money judgment (dkt #17) is DENIED.

DATED this 14th day of August, 2007.



Donald W. Molloy, Chief Judge
United States District Court

